

# Housing and Property Chamber

## First-tier Tribunal for Scotland

---



**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Determination under Section 24(1) of Housing (Scotland) Act 2006**

**Chamber Ref:** FTS/HPC/RP/17/0174

**Title no:** MID229557

**Property address:** 379 Old Dalkeith Road, Edinburgh EH16 4ST ("The House")

**The Parties:** Ms Tina Millar, residing at 379 Old Dalkeith Road, Edinburgh EH16 4ST ("the tenant")

Ms Patricia Donoghue, 49b Ferniehill Road, Edinburgh EH17 7BL ("the landlord")

The Tribunal comprised:-

Mr Mark Thorley – Legal Member  
Mr Kingsley Bruce – Ordinary Member

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') unanimously determined that the landlord has continued to fail to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act'). The Tribunal accordingly varied the Repairing Standard and Enforcement Order (RSEO) as previously made.

### Background

1. The Tribunal in this case has previously considered the application and determined that a Repairing Standard and Enforcement Order be made. That Order was determined and made on 21 July 2017.
2. Subsequently information has been received from the landlord indicating that work had been undertaken to the property. An application was made by the landlord indicating that works had been completed. Although the landlord was invited in terms of the written application to consider a variation of revocation had indicated that she did not wish to do so. The content of the application was sufficient to establish that the landlord was seeking variation of the RSEO.

### The inspection

The Tribunal attended at the property on the morning of Tuesday 9 January 2018.

At the inspection were the tenant and the son of the owner (Mr Donoghue).

At the inspection it was noted that works had been undertaken to the property, the gutters had been cleared and the paving slabs outside the property had been levelled. A copy of the Electrical Installation Condition Report had already been provided. A carbon monoxide detector was present within the property.

It was noted that there was still a water leak on the main supply pipe in the cupboard adjacent to the bathroom.

There was draught proofing around all the windows which had been adjusted and all windows appeared to be in working order.

It was noted that in relation to the boiler the tenant continued to have issues surrounding the re-pressurising of the water.

During the inspection photographs were taken by the ordinary member and a schedule of photographs is attached to this decision.

The inspection was concluded and the Tribunal travelled to the venue for the hearing.

#### The hearing

The hearing took place at George House, 126 George Street, Edinburgh. The landlord was not present nor was the tenant or any representative of either party.

#### Findings in fact

Having considered all the evidence the Tribunal found the following facts to be established:-

1. That the draught proofing around the windows has been adjusted and is in proper working order.
2. The guttering has been unblocked and the uneven and broken slabs re-laid and replaced.
3. There was an Electrical Installation Condition Report provided.
4. A carbon monoxide detector had now been inserted.
5. That there remained issues surrounding the boiler and its working order.

#### Reasons for decision

The Tribunal determined that aside from the issues surrounding the boiler that all other matters had been dealt with. The Tribunal wished to obtain confirmation from a suitably qualified heating engineer that the boiler is in proper working order. The hearing determined that a period of 28 days should be made available to provide such information report.

#### Decision

1. Aside from the issue of the boiler all other matters have been dealt with.

2. Accordingly the Tribunal determined to vary the Repairing Standard and Enforcement Order previously issued and to require that the landlord provide a report from a suitably qualified heating engineer confirming that the boiler is in proper working order.
3. The decision of the Tribunal was unanimous.

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

M Thorley

Chairperson